

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOHN THOMAS KERBEY)
803 College Street)
Cedar Falls, Iowa 50613)
)
Plaintiff,)
)
v.) Civil Action No.: 05-1032 (ESH)
) ECF
FBI)
935 Pennsylvania Avenue, N.W.)
Washington, D.C. 20535)
)
Defendant.)
)

DEFENDANT'S FIRST MOTION FOR ENLARGEMENT OF TIME

Defendant Federal Bureau of Investigation (FBI), by and through undersigned counsel, respectfully moves this Court pursuant to Rule 6(b)(1), Fed. R. Civ. P., to enlarge the time to answer or otherwise respond to Plaintiff's Complaint.¹ Defendant requests that the deadline for responding to this Complaint be extended one month, from September 6 to October 6, 2005. This is Defendant's first request for an enlargement of time, and no scheduling or case management order has been entered in this case. Counsel for Defendant attempted to contact Plaintiff, *pro se*, but was unable to reach him.

First, Defendant notes that the Court has entered an order that Plaintiff, *pro se*, must file proof of service with the Court by September 20, 2005. Although counsel for Defendant is unaware whether all service of process has been completed, the United States Attorney's Office's records indicate that it was served on July 5, 2005. Accordingly, the current response deadline

¹ By way of this motion for an extension of time, Defendant reserves any defense or defenses available under Fed. R. Civ. P. 12 or otherwise, including immunity from suit and improper service.

would be September 6, 2005. This enlargement of time is sought because additional time is needed for counsel for Defendant to confer with agency counsel and obtain critical information about the circumstances of this case. Plaintiff, *pro se*, is seeking damages and injunctive relief for what appears to be some sort of tort claim. Counsel for Defendant has been in contact with agency counsel and anticipates filing a dispositive motion in this case. However, due to counsel for Defendant's heavy caseload, and due to difficulty coordinating both counsels' schedules out of the office, counsel for Defendant now requests this additional time to prepare Defendant's response.

This extension is sought in good faith and will not unfairly prejudice any party. Allowing Defendant some additional time to formulate its response will aid both the parties and the Court in the development and resolution of this case.

WHEREFORE, based on the foregoing, Defendant respectfully requests that the time for answering or otherwise responding to the complaint be extended to and including October 6, 2005.

Dated: September 2, 2005.

Respectfully submitted,

KENNETH L. WAINSTEIN, D.C. BAR # 451058
United States Attorney

/s/

MEGAN L. ROSE, N.C. Bar # 28639
Assistant United States Attorney
555 4th Street, N.W. - Civil Division
Washington, D.C. 20530
(202) 514-7220

CERTIFICATE OF SERVICE

I certify that the foregoing **Motion For Enlargement of Time** was served upon plaintiff pursuant to the U.S. mail, addressed to:

**John Thomas Kerbey
803 College Street
Cedar Falls, Iowa 50613**

on this 2nd day of September, 2005.

/s/

MEGAN L. ROSE
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